

SIDNEY HODGES
JOHN GOLDEN

IBLA 81-346

Decided May 26, 1981

Appeal from decision of the California State Office, Bureau of Land Management, returning the notices of location for mining claims Riverview Nos. 1 and 2 placer mining claims, together with the filing fee.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally -- Regulations: Generally -- Statutes
All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Jon K. Mahlum, Esq., for appellants.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Sidney Hodges and John Golden appeal from the decision of the California State Office, Bureau of Land Management (BLM), dated

January 21, 1981, 1/ returning the location notices for the Riverview Nos. 1 and 2 placer mining claims, together with the filing fee, because they were not filed on or before October 22, 1979, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulations, 43 CFR 3833.1-2(a) and 3833.4(a).

BLM received copies of appellants' notices of location on January 16, 1981. The location notices indicate that the claims were located on July 12, 1948. In their statement of reasons appellants explain that on September 28, 1979, they wrote to BLM inquiring as to the necessary steps which must be taken to obtain patent to their sand and gravel mining claims; that they had made patent application in 1956; and that inquiry was made as to any additional steps required by BLM to secure their claims. 2/ Appellants further state that on October 31, 1979, they received a letter from BLM with pamphlets and circulars enclosed regarding the procedures inquired about. Appellants state they were unaware that the claims had to be recorded "prior to October 21, 1979," and that had BLM replied timely, rather than 3-1/2 weeks after their inquiry, they would have sent the necessary filings.

[1, 2] Section 314 of FLPMA, 43 U.S.C. § 1744 (1976), requires the owner of an unpatented lode or placer mining claim located prior to October 21, 1976, to file a copy of the official record of the notice of location and related documents for the claim in the BLM office designated by the Secretary of the Interior within the 3-year period following October 21, 1976. Section 314 also provides that failure to file timely such records shall be deemed conclusively to constitute an abandonment of the mining claim by the owner. The pertinent regulations, 43 CFR 3833.1-2(a) and 3833.4(a), merely replicate the statutory requirements.

The fact that appellants may have been unaware of the recordation requirements, while unfortunate, does not excuse them from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little,

1/ Apparently the reference in the appeal to "July 10, 1980," as the date of the BLM decision is a typographical error.

2/ A copy of appellants' inquiry is attached to the statement of reasons. In that letter, appellants concede that the 1956 patent application (LA 0137675) was abandoned by applicants and rejected by BLM. There is no allegation of a pending patent application as of October 21, 1976, which might constitute compliance with the recordation requirements. 43 CFR 3833.1-3.

37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellants. This Board has no authority to excuse lack of compliance. Lynn Keith, 53 IBLA 192 (1981); Glen J. McCrorey, 46 IBLA 355 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

C. Randall Grant, Jr.
Acting Administrative Judge.

